

PATENT COOPERATION TREATY

PCT


INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 15 MAR 2005

WIPO PCT

Applicant's or agent's file reference		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/EP2004/002852		International filing date (day/month/year) 18.03.2004		Priority date (day/month/year) 01.04.2003
International Patent Classification (IPC) or national classification and IPC A61K7/06, A61K7/11				
Applicant UNILEVER PLC et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in Item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 21.09.2004		Date of completion of this report 15.03.2005		
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Menidjel, R Telephone No. +31 70 340-3680		



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/002852

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-36 as originally filed

Claims, Numbers

1-18 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/002852

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3,4
	No: Claims	1,2,5-18
Inventive step (IS)	Yes: Claims	
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V.

1 The following documents are referred to in this communication:

D1 : EP 1 281 395 A (OREAL) 5 February 2003 (2003-02-05)

D2 : WO 94/02112 A (NAT STARCH CHEM INVEST) 3 February 1994 (1994-02-03)

D3 : US 5 721 313 A (YEUNG DOMINIC WAI-KWING ET AL) 24 February 1998
(1998-02-24)

2 INDEPENDENT CLAIM 1

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

- Document D1 refers to an hair styling composition comprising an ABA block copolymer wherein the A group are built up from an ethylenically unsaturated polymerisable monomer and the B group is derived from an ethylenically unsaturated carboxylate and, a cosmetically acceptable diluent or carrier (Cf. D1, page 2, paragraph 1; page 2, paragraph 8-page 3, paragraph 15; page 4, paragraph 26-page 33; page 9, paragraph 36-paragraph 37).

The subject-matter described in document D1 takes away novelty of present claims 1,2,5-18.

2.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

- Document D2 describes an emulsion polymer for use in hair styling composition comprising an ABA block copolymer wherein the A group are built up from an ethylenically unsaturated polymerisable monomer and the B group is derived from an ethylenically unsaturated carboxylate and, a cosmetically acceptable diluent or carrier (Cf. D2, page 1, lines 5-8; page 2, line 15-page 3, line 15; page 4, line 8-page 5, line 7; claims 1-19).

The subject-matter described in document D2 takes away novelty of present claims 1,2,5-18.

2.3 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

- Document D3 refers a crosslinked polymer composition for use in cosmetic comprising an ABA block copolymer wherein the A group are built up from an ethylenically unsaturated polymerisable monomer and the B group is derived from an ethylenically unsaturated carboxylate and, a cosmetically acceptable diluent or carrier

(Cf. D3, column 1, lines 30-57; column 2, lines 27-52).

The subject-matter described in document D3 takes away novelty of present claims 1,2,5-9,12,14,15.

3 DEPENDENT CLAIMS 2, 5-18

- Dependent claims 2, 5-18 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

4 DEPENDENT CLAIMS 3, 4

- Although apparently novel, the remaining subject-matter which is the subject-matter of present claims 3,4 is not considered inventive for the following reasons (Article 33(1),(3) PCT):

Document D1, which is considered as the closest prior art, describes a hair styling composition comprising an ABA block copolymer wherein the A group are built up from an ethylenically unsaturated polymerisable monomer and the B group is derived from an ethylenically unsaturated carboxylate and, a cosmetically acceptable diluent or carrier (Cf. D1, page 2, paragraph 1; page 2, paragraph 8-page 3, paragraph 15; page 4, paragraph 26-page 33; page 9, paragraph 36-paragraph 37).

- The problem to be solved by the present application appears to obtain hair care compositions containing styling polymers that can perform under conditions of high humidity (see application on page 1, lines 18-23).

- The solution proposed in the present application is to provide a composition comprising a polymer comprising an ABA block copolymer, wherein the A group are built up from an ethylenically unsaturated polymerisable monomer and the B group is derived from an ethylenically unsaturated carboxylate and, a cosmetically acceptable diluent or carrier (see application, on page 3, lines 12-18 and claim 1).

- The subject-matter of present claims 3,4 is a matter of normal design procedure and would therefore be an obvious design possibility for the skilled person in order to solve the problem posed. Therefore, no inventive step is present in the subject-matter of present claims 3,4 (Article 33(1),(3) PCT).

INTERNATIONAL SEARCH REPORT

International Application No
PCT/EP2004/002852

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61K7/06 A61K7/11

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A61K C08F

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the International search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, CHEM ABS Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 1 281 395 A (OREAL) 5 February 2003 (2003-02-05) page 2, paragraph 1 page 2, paragraph 8 - page 3, paragraph 15 page 4, paragraph 26 - page 7, paragraph 33 page 9, paragraph 36 - paragraph 37	1,2,5-18
X	WO 94/02112 A (NAT STARCH CHEM INVEST) 3 February 1994 (1994-02-03) page 1, line 5 - line 8 page 2, line 15 - page 3, line 15 page 4, line 8 - page 5, line 7 claims 1-19 -/--	1,2,5-18

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents:

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the International filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the International filing date but later than the priority date claimed

- *T* later document published after the International filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- * & * document member of the same patent family

Date of the actual completion of the International search

18 June 2004

Date of mailing of the International search report

07/07/2004

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Menidjel, R

INTERNATIONAL SEARCH REPORT

International Application No
PCT/EP2004/002852

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5 721 313 A (YEUNG DOMINIC WAI-KWING ET AL) 24 February 1998 (1998-02-24) column 1, line 30 - line 57 column 2, line 27 - line 52	1,2,5-9, 12,14,15
A	WO 01/07496 A (JARVIS ADAM PETER ;BP CHEM INT LTD (GB); HADDLETON DAVID MARK (GB)) 1 February 2001 (2001-02-01) cited in the application page 2, line 3 - line 29 page 6, line 25 - page 8, line 14 claims 1-15	1-18

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/EP2004/002852

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
EP 1281395	A	05-02-2003	FR 2827513 A1	24-01-2003
			CN 1415280 A	07-05-2003
			EP 1281395 A1	05-02-2003
			JP 2003055137 A	26-02-2003
			US 2003059391 A1	27-03-2003
WO 9402112	A	03-02-1994	AU 667115 B2	07-03-1996
			AU 4410993 A	14-02-1994
			CA 2118918 A1	03-02-1994
			DE 69322062 D1	17-12-1998
			DE 69322062 T2	15-07-1999
			EP 0605686 A1	13-07-1994
			JP 2559569 B2	04-12-1996
			JP 6508158 T	14-09-1994
			WO 9402112 A1	03-02-1994
			US 5501851 A	26-03-1996
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WO 0107496	A	01-02-2001	AU 5092800 A	13-02-2001
			WO 0107496 A2	01-02-2001